NEUTRAL—8

1 Mr. T. K. Alexander	5 Mr. K. M. Kuriakose
2 „ K. R. Elenkath	6 „ M. K. Madhavan Pillai
3 „ Antony George	7 „ K. A. Narayana Pillai
4 „ C. V. Kunjuraman	8 „ P. K. Naryana Pillai

DEPUTY PRESIDENT: The motion is lost. The general principle of the Bill is not accepted by the House.

THE HINDU LAW OF INHERITANCE (AMENDMENT) BILL.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): Sir, I move that the Hindu Law of Inheritance (Amendment) Bill be read in the Assembly.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): I second it.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, it is the usual practice for the mover to explain the principle of the Bill that he is introducing.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): The present Bill is an attempt to bring the law relating to Hindus into conformity with that prevailing in British India. There, in the year 1929, an Act was passed at the instance of Justice T. V. Seshagiri Aiyar and was enacted as Act II of 1929. The present Bill is a mere reproduction of it. Subsequently, in Mysore, Regulation X of 1933 was passed which, while following the principle of British Indian Act, made a departure so far as the order of succession of these limited heirs is concerned. That also has been enacted as Section 4 of the Mysore Regulation and reproduced in the Statement of Objects and Reasons which I have given:—

The sister and other female heirs were not recognised formerly as heirs at all under the Mitakshara. This proposal was made some 75 years ago by the Madras High Court because under the old arrangement these were not recognised as heirs at all. They came to be recognised only at the fag end of it. Followers of Mitakshara Law in British India came to be affected by Act II of 1929; and in the subsequent enactment in Mysore by the Regulation of 1933 a more logical arrangement was given to the Act of 1929 by which the sons' daughters who were given the 14th place under the British Act were given the 8th place under the Mysore Regulation. The daughters' daughter who was given the 15th place in the British Indian Act was given the 9th place in the Mysore Regulation and the sisters' daughter who was given the 16th place was given the 15th place in the Mysore Regulation. These are the only differences which exist between the British Indian Act and the Mysore Regulation. Now so far as Travancore is concerned, I shall quote a passage from the judgment of our High Court.

> "There is no reason why we should lay down a different rule for those following the Hindu Mitakshara Law in this country. The great majority of the community following Hindu Law in Travancore are emigrants from British India."

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[Mr. P. Chidambaram Pillai.]

It is merely a reproduction of the British Act and we follow the line of least resistance, because this order of succession has been enacted both in British India and in Mysore without any opposition whatever.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): May I know whether there was not a committee of enquiry in Mysore?

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): The Mysore Committee was formed not merely for this purpese. The whole question of the rights of women under Hindu Law was considered by that Committee.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Which are the communities in Travancore that can be included as following the Mitakshara system of law?

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): The Section itself says that.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): With reference to the observations read out by the member from the judgment, I ask the question in order to ascertain what the communities are in Travancore that would be largely affected and whether it would be only the emigrants or some others such as the Kammalas, for example, that would be affected.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): There are ever so many communities as Kammalas, Pandi Kammalas, Vellalas, Brahmins, etc, who are recognised to be followers of Mitakshara Law.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): But have they got any contact with British India?

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): Yes, most of them have got matrimonial connections with British India.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): Sir, while supporting the principle of the Bill that a re-arrangement—

DEPUTY PRESIDENT: Are you seconding?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) Yes, Sir. I support the principle of the Bill. Some legislation is certainly necessary. But at the same time, I submit, this piece-meal legislation is not what we want. The change was made in Mysore by Regulation X of 1933. The necessity of such a change in Travancore may be determined by a Select Committee. What is required is that the whole system should be reconstituted. It is not enough that the four heirs, son's daughter, daughter's daughter, sister and sister's son are placed in the order of succession after father's father and before father's brother. That is only a piece-meal legislation. We want the whole system to be reconsidered by the Select Committee.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): What does the member mean by whole system?

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MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : The whole question of inheritance.

MR. M. SIVATANU PILLAI (*Tovala*) : May I know whether daughters share equally with the sons ?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : That is not in the law of succession. I may inform the Honourable member that sons, grandsons, great grandsons, daughters, daughter's sons, they all come in the order mentioned. Daughters and sons do not share jointly at all. Hindu Law is quite different from the Indian Law of Succession or other laws. Therefore, I submit that the whole question must be considered by the Select Committee.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : May I know whether a change of succession according to the member would not be losing sight of the principle on which the Hindu Law of succession is based ?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : Certainly not. To make my position clearer, by giving any preference to certain heirs in the order of succession, no fundamental principle of Hindu Law is violated. In fact, the law of inheritance, I submit, is understood in different ways in different parts of India. Different Judges have come to different conclusions in these matters. The law of inheritance in Bengal is different from that which prevails in the Madras Presidency and the Bomby Presidency ; commentators have explained the law as it suited them.

DEPUTY PRESIDENT : I want to make the position clear. Mr. Sambasiva Aiyar, while supporting the principle, would like to extend the scope of the Bill. Is that your position, Mr. Sambasiva Aiyar ?

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*) : Yes, Sir, that is my position.

MR. A. THANU PILLAI (*Trivandrum-Rural*) : Sir, I support the motion for the introduction of the Bill and agree with Mr. Sambasiva Aiyar, that if the Bill is referred to a Select Committee, powers should be given to that Committee to go into the whole question of inheritance according to Mitakshara. I find from the Census Report that about 9 lakhs of people in Travancore follow the Mitakshara system of inheritance.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : May I know, out of these 9 lakhs, how many can be deemed to have contact with British India ?

MR. A. THANU PILLAI (*Trivandrum—Rural*) : I do not know. Out of the 9 lakhs, a good many are controlled by custom and communal usages. There is no knowing as to how many of the 9 lakhs follow the ordinary Mitakshara Law. Nor am I in a position to know what changes the community wants. Mr. Chidambaram Pillai makes this proposal here. Mr. Sambasiva Aiyar says that more changes are necessary. There are only half a dozen members of this House who are likely to be affected by this measure personally. This is a very important matter, since it affects a considerable section of the people and it

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[Mr. A. Thanu Pillai]

is a very difficult matter to decide too. How far the community wants changes, we do not know. Personally, I would like this matter to be entrusted to a committee specially appointed for the purpose and that committee should take evidence.

Certainly I attach great weight to what Mr. Chidambaram Pillai has said. And I do not question his right to speak on behalf of the community concerned; but, Sir, I find from the Census Report, that about 48 castes are comprised in that nine lakhs of people following the Mitakshara Law. Now, how many of these really want the proposed change and whether the majority of these communities want it, we do not know. But the Bill is before the House. I would therefore suggest that it may be referred to a Select Committee with power to go into the whole question of inheritance or such parts of it as it may deem fit to consider and take evidence. It may for that purpose go to a place with a large population following the Mitakshara Law such as Nagercoil and Shencotta, and there invite witnesses and take evidence from them. They can also take evidence in Trivandrum, I lay stress on this because we do not know what changes it is that the community wants. We should not take a leap in the dark.

No doubt something was done in British India. As for the question put by the learned Law Member, I do not know how many people in Travancore have contact with British India. I do not know personally how far the statement in the High Court judgment is correct. I am not sure whether any part of this large———

DEPUTY PRESIDENT: The member questions an observation which occurs in the High Court judgment. Is that so?

MR. A. THANU PILLAI (*Trivandrum - Rural*): I do not want to question the High Court judgment. In answer to the Law Member's question, I say I do not believe that a large part of the people following Mitakshara Law, as stated in the Census Report, do really have relations with British India. For instance the Kammala community follow Hindu Mitakshara Law but they have very little contact with British India. They form two to three lakhs of people. There are many other communities in the list of the 48 communities who have very little to do with people in Tinnevelly or Madura. We need not follow what is done in British India simply because it has been done there. A better course, according to Mr. Chidambaram Pillai, is to follow what has been done in Mysore; we may go further if possible and necessary.

No doubt there were considerations that weighed with the ancient Hindus who said that the daughter had nothing to do with the property of the father. But in these modern days when conditions have tremendously changed, one cannot easily make himself reconciled to the position that the son should be given a treatment different from that accorded to the daughter in respect of the assets of the father. We must, if possible, go into the whole question of inheritance. I do not know how far the communities are willing to have changes. The question may well be referred to a Select Committee.

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RAO SAHIB S. PARAMESVARA AIYAR (*Nominated*): Sir, I support the principle underlying the Bill introduced by my friend Mr. Chidambaram Pillai. So far as the changes advocated by Mr. Chidambaram Pillai are concerned, I am in agreement with him; but if the whole system of the Mitakshara Law of inheritance is to be examined and reviewed, I am afraid that it cannot be done unless the Government appoint a separate committee for the purpose and they collect evidence. I do not think that it will be enough if a Select Committee of this House examines witnesses and arrives at a decision. For that, an *ad hoc* committee is necessary. But in respect of the small changes advocated by Mr. Chidambaram Pillai, there can be no difference of opinion; and it is therefore that I support him.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): Sir, I support the principle of this Bill, but I do not agree with Mr. Sambasiva Aiyar that the whole system of the Hindu Law of Inheritance should be revised. This Bill itself has been introduced for the very limited purpose of advancing the order of certain *Bandhus* in the line of succession, The preamble says "it is expedient to alter the order in which certain heirs of a Hindu male dying intestate are entitled to succeed to his estate." The object of this Bill is clear from the preamble.

Some of the members referred to the Mysore Committee which went into the question of women's rights under Hindu Law and the legislation that followed their enquiry. That was constituted for the purpose of placing the rights of women generally on a statutory basis. That has nothing to do with the scope of this Bill. This Bill is for the purpose of advancing the order of succession of certain *Bandhus*. It is for the purpose of altering the line of succession so as to place the son's daughter, daughter's daughter, sister and sister's son next after the father's father and before the father's brother. Ordinarily, under the system of law as has been hitherto followed, the heirs whose order of succession is sought to be advanced by this Bill would come about 400 places later. The order of succession of these heirs is very low and does not follow the line of affinity and affection. It was in order to give effect to the popular opinion that the order of succession of these heirs should be advanced that a Bill on similar lines was introduced in British India and passed into law. In the Statement of Objects and Reasons of the Bill passed as Act II of 1929 in British India, it is stated

> "The whole law of Hindu inheritance is unsatisfactory and does not follow the line of affinity and affection, placing as it does agnatic kinsmen however remote above all cognatic relations however near".
>
> The Bill will not seriously affect the law as understood in the province of Madras where female *Bandhus* are allowed to rank but only after all the male *Bandhus* are exhausted."

That Bill was very much restricted in its scope and character and it is that Bill that is sought to be introduced into the Statute Book here. I for one do not believe in a wholesale recasting of the whole system of the Hindu law of inheritance. No system of personal law can be said to be perfect. The best way to deal with the defects in any system

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[Mr. S. Chattanatha Karayalar.]

of personal law is to make amendments as and when the necessity is felt and not to try to alter the entire system. You cannot alter or rebuild the structure of Hindu Law of Inheritance according to *a priori* principles. 'Sufficient unto the day is the evil thereof' is a maxim of considerable practical wisdom even in regard to alteration of a system of law. I am of opinion, Sir, that to alter the whole law of inheritance will be going beyond the scope of this Bill and it will be inadvisable and inexpedient to go beyond the scope of the Bill and try to change the whole law of inheritance.

MR. A. THANU PILLAI (*Trivandrum Rural*): What does the member say as to the necessity of taking evidence ?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): I do not feel there is any necessity for taking evidence. The scope of the Bill being limited, I do not think it is necessary to take evidence. But seeing that in this matter it would be advisable to give respect to popular opinion, at least of the communities that are intended to be affected by the Bill, I have no objection to evidence being taken.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): Are you for extending the scope of the Bill ?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): No. The scope of the Bill is very limited. It is only to advance the order of succession with regard to certain heirs. Technically, we are not competent to enlarge the scope of the Bill at the Select Committee stage.

Sir, as to the necessity for a change, I recognise that there is a general agreement among the people who will be affected by this piece of legislation that there is necessity for a change in the law of inheritance on the lines indicated in the Bill. For example, in British India, it was felt that the law of inheritance of the heirs specified was in need of reform. So the Hindu Law of Inheritance was passed. Similarly, there was another Bill for the Law of Inheritance of certain other people. That was enacted by a separate Bill there. A similar change is felt to be necessary in Travancore also. Moreover, there must be uniformity of law in this matter.

What I want to suggest is that these defects may be rectified by separate pieces of legislation as and when they are felt. It is impracticable to change the whole structure of the law of inheritance and to deal with it. I am against the scope of this Bill being extended so as to cover an enquiry to be made as to how the system of inheritance may be changed.

DEPUTY PRESIDENT: Will the changes now proposed affect the principles of the law of inheritance according to Mr. Karayalar?

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): It will affect to a limited extent because the very object of the Bill is to introduce some heirs into the line in a different order The order itself is proposed to be changed and it is for this purpose that legislation has been found to be necessary.

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MR. PACODE A. NARAYANA PILLAI (*Vilavankod*): I support the principle of the Bill and I want to make only one observation with a view to be enlightened. I want to know whether the mover of this Bill wants to bring within the ambit of its provisions certain communities in Travancore which no doubt generally follow the Mitakshara Law but at the same time are governed by certain local customs and modifications. For instance, I would refer to the community called *Chakkalas* in certain places in South Travancore. Our High Court in several cases have held that, among this particular community who follow the Hindu Mitakshara Law, the daughters and sons inherit. That is a fundamental change. And again there is another community known as *Krishnan Vagai* who follow Hindu Mitakshara Law. There are very fundamental local customs governing the inheritance of this community, for instance, the *Pagnibhagom* and the custom by which the widow of the deceased brother being allowed to marry the surviving brother and her children being allowed to inherit him. I want to know from the mover of the Bill whether such communities as are governed by local customs are also to be brought in the ambit of this measure.

MR. K. R. ELENKATH (*Kalkulam I*): I also support the principle underlying the Bill. I know that Mr. Chidambaram Pillai has a big support in the country among the communities for the benefit of which it has been inaugurated. Sir, I come from a constituency which consists of a considerable number of members who are to be affected by the Bill. The object of the Bill is no doubt that an alteration in the line of succession should be made so as to bring it in conformity with that in British India and to give preference to son's daughter, daughter's daughter, sister and sister's son before father's brother. I only say that the scope of the Bill can as far as possible be extended and the Select Committee, which has of course the power to examine witnesses, may as far as possible be given opportunity of knowing the opinion of the general public in the matter.

DEPUTY PRESIDENT: I propose to ask Mr. P. K. Narayana Pillai and Mr. Changanachery Paramesvaran Pillai to speak if they mean to speak.

MR. CHANGANACHERY K. PARAMESVARAN PILLAI (*Kunnattur* cum *Pattanapuram*): I have very great pleasure in supporting the principle of the Bill.

It was asked whether the mover intended to include, within the ambit of this Bill, certain communities like the Kammalas who follow the Mitakshara law generally, but modified by custom. In their case, according to custom, the sons and daughters are treated alike in the matter of inheritance and they divide the properties equally. This Bill cannot certainly apply to such communities. Because, this Bill merely seeks to change the order of succession in the case of people who follow the pure Mitakshara system of Hindu Law. So far as I can see, this Bill is not intended to affect those whose system of inheritance has been altered by custom or by special local legislation.

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[Mr. Changanachery K. Parameswaran Pillai.]

The change sought to be introduced by this measure is a small change, and a change which, as has already been submitted, been accepted in British India. I do not think any very elaborate investigation, as to the opinion of the communities affected, is necessary if the Bill is confined to its present object. If, on the other hand, as was suggested by some members, the scope of the Bill is to be extended, an enquiry, as to the opinion of the communities affected, will certainly be necessary. But, on that subject, as to the scope of the Bill being extended, there seems to be considerable difference of opinion among the members of the Assembly who will be affected by this Bill. I do not propose to venture any opinion on that.

I support the principle of the Bill.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Sir, I have also some pleasure in supporting the principle of this Bill, but, in doing so I think it necessary to draw attention to certain points that may affect, the situation in this State

The measure is intended to effect certain changes in the Hindu Law of inheritance as it is administered in the State. Act II of 1929 (Madras) has been referred to in this connection, and it has been pointed out, placing reliance on a passage in a pronouncement by the High Court of Travancore, that many of the families now in Travancore following the Mitakshara law are immigrants into Travancore from the adjoining districts of the Madras Presidency. It is stated that it is therefore desirable to amend the law of inheritance, not at the very root, but on the fringes as it were, so that it may be brought into line with the law obtaining among our neighbours. So far, it is all right.

A thorough consideration of the system of inheritance has not been undertaken by the mover of the Bill, for very plain reasons. Sir, the main principles of inheritance in the case of intestates under the Mitakshara law are not in any way clouded and do not demand any modification. The whole system is regulated by one or two verses in Yagnavalkya's Smrithi as elucidated by its commentary, the Mitakshara. If there are sons, it is a case of succession. Inheritance begins, only if there are no sons, or sons' sons. It begins with the wife, the daughter comes next and so on according to the order given in the text of the Smrithi. There is no possibility of making any mistake. It is as we descend further down into the remote stages that the question arises whether the nearer female heirs, as we view them, should not be preferred to remoter male relations. It is there that, in Madras, the Legislature has stepped in. And, it is there that Mr. Chidambaram Pillai here proposes now to step in. Reliance is placed, as I have already submitted, on the pronouncement of the High Court to the effect that the communities concerned are immigrants from the adjacent British Indian province, and it was stated therefore, that this legislation is proper and desirable.

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Sir, if that be the only reason for bringing in this measure, it may be contended that, even without any special legislation here, the communities concerned would be entitled to the law as it is in Madras being applied to them here also; for, the principle of law is that migrating families carry with them their personal law wherever they go. Sir, it is perhaps now difficult to prove, though easy to guess the migration of these families, at this distance of time. Further, it is also not quite clear what communities would be affected by this enactment. That question has to be carefully considered. Mr. Pacode Narayana Pillai has been drawing attention to certain communities in South Travancore who follow Hindu Law, but modified very much by custom. I may draw the attention of the House to certain other communities, which are not so articulate as the communities referred to by Mr. Pacode Narayana Pillai, for example, some of the depressed class communities, who follow the Hindu Law modified by custom. There are numerous communities of that kind in regard to whom we are not now in a position to know definitely the extent to which the Hindu Law is followed. I must say, Sir, that, in regard to some of these communities, the Courts have been indiscreminately applying Hindu Law without regard to custom. My submission, Sir, is that, the Courts ought to have given precedence to custom in the case of these communities, apart from the written text of the Hinu Law. I would therefore request the House first to consider the question of the communities to which this Bill is sought to be applied. In the case of communities like the Brahmins and Vellalas having relations in British India, they would only be glad to fall into line with their brothern beyond the ghats. But, with respect to other communities practically confined to Travancore, it is desirable that their wishes are ascertained and their views are understood before their law is changed. We shall not be justified in ignoring their wishes in the matter and in riding roughshod over their feelings.

MR. S. CHATTANATHA KARAYALAR (*Shencotta*): May I ask whether local custom having the force of law will be superseded by this Bill?

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): I am only submitting, Sir, that even the prejudices of such communities should be respected if they are for no change, custom or no custom. I can understand the position of communities who know their own position in law and who are aware of the change in British India. They know what they want and so demand the change. But, what about communities like the Kuravas and the Parayas who follow Hindu Law without any knowledge of the changes recently introduced in Hindu Law? I submit the Legislature would not be justified in forcing this piece of legislation on such communities, at any rate before they are fully informed of it. That is the only risk which, I think, we have to take into account, in attempting an enactment like the one now before the House. In other respects, personally speaking, Sir, I am glad to see that the rank in the grade of inheritance is raised in the case of persons who stand to benefit by this measure. Natural justice demands such promotions

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[Mr. P. K. Narayana Pillai.]

over others. Only, ultimately, it should not turn out that we have imposed this legislation on a set of people who did not want it. That is the point.

DEPUTY PRESIDENT : Are you speaking, Mr. Sivatanu Pillai ?

MR. M. SIVATANU PILLAI (*Tovala*) : No, Sir.

DEPUTY PRESIDENT : Do you propose to speak, Mr. Easwara Pillai ?

MR. A. EASWARA PILLAI (*Kalkulam II*) : No, Sir.

DEPUTY PRESIDENT : Mr. Kesava Sastri ?

MR. T. T. KESAVAN SASTRI (*Nominated*) : No, Sir.

DEPUTY PRESIDENT : The Law Member.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*) : Sir, the position of Government in this matter is, I must say, rather delicate at present. Personally speaking, I am in full sympathy with Mr. Chidambaram Pillai's Bill. For that matter, if I am allowed to have my own way in this matter, I may agree to the present law and custom being completely revised and to the whole system being thoroughly overhauled so that man and woman may have equal rights in the matter of inheritance.

Sir, I am probably digressing from the matter before the House. Sir, as I was submitting, Sir, the position of Government is very delicate. Because, while they do not want to stand in the way of any community seeking to bring wholesome changes in its law, they have to be convinced, before they give their *support* to such a measure, that the bulk of the communities affected, or at least a majority of the community are in favour of the proposed change.

It was mentioned here that the law has been changed in British India. No doubt, ordinarily, that would have been a very good reason. But, as has been pointed out by Mr. P. K. Narayana Pillai, and to some extent by Mr. Thanu Pillai also, there are many Travancore communities too to whom this Bill, if passed, may apply. They are of Travancore only and have no relationship with the people in British India. Therefore, the mere fact that the law has been changed in British India is scarcely an adequate ground for bringing about the change here, especially in regard to communities which have nothing to do with British Indian people.

Sir, it must not be understood that I am opposing this measure. I only submit, for the information of the promoters of this Bill that, in this matter, the position of the Government is very delicate. If they want the Government to come forward and support this measure, they must satisfy Government that, not merely is there a similar enactment in British India or in Mysore, but that the followers of the Mitakshara law in Travancore are, in bulk or in majority, in favour of this measure. In the present circumstances, the position of Government can only be described as one of armed neutrality, not one of indifference. The

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moment they are satisfied that the bulk or the majority of the communities concerned are in favour of the measure, Government will give their full support to this Bill. Also, if they find that the communities are against this Bill, Government will oppose it.

It was suggested by Mr. Sambasiva Aiyar that the scope of the Bill might be extended, and that the Select Committee might be empowered to effect a complete change in the system of inheritance applicable to the communities following the Mitakshara law. Sir, I am very doubtful about that. It will hardly be justifiable considering the very narrow scope of the Bill that the mover has placed before the House. It seeks only to give proper places to certain sets of heirs. It does not seek to go beyond that.

However, it is beyond me to say whether it is within the scope or not. For my part I should express my view that a general revision of the whole system of inheritance does not arise in this Bill. The only question in this case is whether or not to accept the order of inheritance proposed in the Bill. Then again, regarding the question of evidence being taken, it is suggested that the Select Committee may take evidence for ascertaining the mind of the community. But I have doubts about that. The Select Committee cannot examine any person for the purpose of evidence because the Committee's functions are somewhat limited. I will draw attention to the provision of the legislative rules which deals with the Select Committee's function of taking evidences. That is in paragraph 90 of the Manual.

Standing order 35, Sub-part 4: -

> "A Select Committee may hear expert evidence and representatives of any special interests affected by the measures before them and may for the purpose of obtaining information invite any person to be present at its sittings."

This is all the power which the Select Committee has got and I doubt very much whether that power can be converted into a power of taking evidence to find the general consent or dissent of the members of the community, by the proposed committee. I am drawing attention to this fact for one particular reason. I said that the Government's position is one of armed neutrality. If the Government are satisfied that a majority of the community supports this measure, they will support it in the later stages of the Bill. If they are not satisfied, I fear the Government may have to drop their present attitude of neutrality and take up arms against the measure.

MR. A. THANU PILLAI (*Trivandrum-Rural*): What is the Government's position now?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Armed neutrality. I may offer one word of advice to the promoters of this Bill. If they want the support of the Government, they must get the support of the bulk of the communities to be affected. It is not merely through the evidence that may be tendered to the Select Committee, not merely by the examination of a few persons as expert persons, but it is by a general awakening of the communities

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affected that Government should be satisfied. In this respect, the promoters of the Bill have got to do a good deal in the way of awakening the community and eliciting their consent to this measure. I trust that it is possible for Mr. Chidambaram Pillai and his supporters to do this.

Let me make my position clear. The Government do not at all oppose the measure. Government are quite prepared to allow the community to change the law, and I am glad to say that most of the speakers who supported this Bill are followers of Mitakshara Law. But there is a large number of people who do not perhaps even know the existence of this House, and it is only right and fair to see whether these people are also in favour of this Bill. Government also would like to be convinced of that and then they are quite prepared to agree to the necessary changes effected.

MR. A. S. DAMODARAN ASAN (*Mavelikara*): May I know from the member whether this House does not represent those who do not know of its existence?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Constitutionally it may perhaps—but electorally it does not, I think. I am only making the suggestion for the purpose of asking Mr. Chidambaram Pillai and his supporters to bring home to these illiterate people the benefits of this measure so that they may bless this measure with their support. As Mr. P. K. Narayana Pillai said, many uneducated communities are governed by Mitakshara Law and we must acertain from them their opinion about the proposed change. There may be communities among them who are in a much better position without this proposed change. So it will be seen that whatever we enact will affect *different* communities in *different* ways. This change may prove better for one and worse for another. Therefore, I say, some sort of enquiring or propaganda work should be done before the further stages of this proposed measure are submitted to the tHouse.

MR. P. K. NARAYANA PILLAI (*Ambalapuzha I*): Has not a similar enquiry been set up in Baroda?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not know whether there was any enquiry conducted in Baroda. But in Mysore, there was a committee constituted for the purpose of eliciting evidence with regard to such matters.

MR. R. SAMBASIVA AIYAR (*Kunnatnad II*): May I draw the attention of the Honorable member to Section 3 of the law about local custom. It says:—"Nothing in this Regulation shall affect any special family or local custom having the force of law."

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): I do not think that it is intended to affect the custom of *communities* as followed today. If that were so, the question will be what

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changes are we going to adopt with regard to the text of the Mitakshara Law as it is accepted by the British Indian courts or the Travancore courts. The Mitakshara Law is not codified. It varies with provinces and with families too perhaps; and there is considerable scope for differences of opinion when we propose to adopt a measure of this sort. I am only indicating a point of danger and we will have to make sufficient provision so that these proposed changes may not prejudicialy affect the various communities which follow varying customs. I must say that a great responsibility lies on Mr. Chidambaram Pillai and his supporters to gauge the sentiments of those communities in respect of this change. Government may not be quite aware of the attitude of the communities who are affected by this law.

MR. A. THANU PILLAI (*Trivandrum-Rural*): May I know from the Law Member whether the Government would also try to ascertain the views of those communities?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That is somewhat problematical. Government want their responsibility to be considerably lightened in this matter. I may point out, however, that this measure was sponsored in British India on general principle of equity, I think; and if public opinion in this country is also favourable, I think Government will have no difficulty in supporting this measure.

MR. A. THANU PILLAI (*Trivandrum-Rural*): May I know whether this measure can be taken up, even higher up?

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): That means that we will have to revise the whole law. Personally I may not object.

DEPUTY PRESIDENT: That is the member's personal opinion.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Yes, Sir. If the communities are willing to adopt this change, Government will not object.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): When I stated first that the law in Travancore is not in conformity with what is prevalent in British India, I did not mean to be dogmatic and I do not assert that whatever law is found in British India must be followed here also. What I said was that there will not be much of opposition in Travancore for such a law being introduced; not that we are bound to follow that law. In British India, there are millions and millions belonging to several castes. Such castes, by the Mitakshara Law as it is enacted, are and will be affected. This Act is of a very limited character. In clause I sub clause (ii), it is stated "it extends to the whole of Travancore, but it applies only to persons who, but for the passing of this Regulation would have been subject to the law of Mitakshara in respect of the provisions herein enacted: and it applies in respect only of the property of the males not held in coparcenary and not disposed of by will". That is to say, it is only in cases where it is found that the

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[Mr. P. Chidambaram Pillai.]

parties are followers of Mitakshara Law and to those parties which follow the old order of succession under the Mitakshara this change would apply. That makes it perfectly clear. If the parties are found to be not following the Mitakshara Law, but family or local custom, this law will not apply at all. This is made clear by the saving clause. When it is found in any given case that the old order of succession under the Mitakshara prevails, this change will affect them.

Of course the Honourable Law Member, who at one time professed to be my friend, later on stated that his position is that of armed neutrality. The present Bill is perfectly harmless and has not aroused any opposition in the House. The Mysore Committee which entered into the question of womens' rights under Hindu Law observed :—

> "The refashioning and recasting in the form of a code of the vast expanse of the Hindu Law may be the ideal, but is hardly necessary or practicable at present. The task is one that will involve great difficulty and entail considerable time and labour, besides being certain to arouse much and needless opposition. An ambitious project of this sort is the surest way of blocking necessary legislation on those points where the need for change is most pressing".
>
> "Piecemeal legislation, so called, has thus its own manifest advantages over wholesale codification. It is a futile ambition which seeks to foresee and regulate everything once for all".

This is what I have stated in the objects and reasons for the introduction of this Bill. After this Bill was accepted in British India, Mysore adopted this principle. A limited proposal of this sort is very necessary and pressing. It is therefore I was able, because the measure was of a very limited character, to get the support of many Honourable members.

DEPUTY PRESIDENT : Is the House in favour of the principles of the Bill being accepted ?

The principle of the Bill was accepted by the House.

The Secretary then read the title of the Bill.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*) : I propose that the Bill may be referred to a Select Committee consisting of the following members :—

1 Mr. T. K. Velu Pillai (Deputy President)
2 ,, P. K. Narayana Pillai
3 ,, A. Thanu Pillai
4 ,, R. Sambasiva Aiyar
5 ,, Changanachery K. Parameswaran Pillai
6 ,, S. Chattanatha Karayalar
7 Rao Sahib S. Parameswara Aiyar
8 Mr. K. A. Narayana Pillai
9 ,, S. Krishna Pillai
10 ,, K. Kunjukrishna Pillai
11 ,, Kayalam Parameswaran Pillai
12 ,, P. Chidambaram Pillai

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MR. P. K. NARAYANA PILLAI (*Ambalapuzha 1*): If I may be permitted, I wish to say that, I understand that among the Ezhava community, there are people following Makkathayam. We should get their views represented. So I propose Mr. K. Sankaran B. A., B. L.

MR. A. THANU PILLAI (*Trivandrum—Rural*): Sir, I propose Mr. S. Thiraviam Nadar be also made a member of the Committee since he represents a large community that will be affected by the Bill.

MR. K. C. KARUNAKARAN (*Nominated*): I second it.

MR. N. JOHN JOSEPH (*Nominated*): I propose Mr. T. T. Kesavan Sastri also.

DEPUTY PRESIDENT. Mr. K. Sankaran's name has been proposed by Mr. P. K. Narayana Pillai, Mr. S. Thiraviam Nadar's name has been proposed by Mr. A. Thanu Pillai and Mr. T. T. Kesavan Sastri's name by Mr. John Joseph.

I hope Mr. Chidambaram Pillai has no objection.

MR. P. CHIDAMBARAM PILLAI (*Commerce and Industry, South*): I have no objection.

DEPUTY PRESIDENT: The Select Committee will report within 4 months.

VAKILS' REGULATION AMENDMENT BILL.

MR. S. J. NAIR (*Nedumangad*): As for the Vakils' Regulation Amendment Bill, I am not moving that Bill in this Session and will bring it up later on.

MR. KAYALAM PARAMESVARAN PILLAI (*Additional Head Sirkar Vakil*): Sir, on a point of order. It is not for him to say that.

DEPUTY PRESIDENT: Mr. S. J. Nair, you cannot put the House on terms. The only question is whether you are introducing the Bill.

MR. S. J. NAIR (*Nedumangad*) I am not introducing the Bill, Sir.

DEPUTY PRESIDENT: Then there is an end of the matter.

MR. S. J. NAIR (*Nedumangad*): Yes, Sir.

RESOLUTIONS ON MATTERS OF GENERAL PUBLIC INTEREST.

Reduction of pay of Government officers.

MR. K. KUNJUKRISHNA PILLAI (*Quilon 1*): Sir, I move:—

"This Assembly recommends to Government that, in order to afford adequate relief to the people in their present economic difficulties, appropriate reductions in the pay and allowances of officers be made with a view to reduce the total expenditure on account of pay and allowances of officers by 33 1/3 per cent."

Sir, I do not think that an elaborate speech is necessary in this House to commend this resolution for its acceptance, because this House is aware that cuts in the pay and allowances of officers were effected in British India and all over the world. Travancore is perhaps the only place where the pay and allowances of officers have not been

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